**Docket D.T.E. 02-40**

**Investigation by the Department of Telecommunications and Energy on its own Motion into the Provision of Default Service**

Initial Comments of the Union of Concerned Scientists, Massachusetts Energy Consumers Alliance, Massachusetts Public Interest Research Group, Clean Water Action, Conservation Law Foundation, and The Environmental League of Massachusetts

August 9, 2002

We welcome this opportunity to submit comments to the Department of Telecommunications and Energy ("Department" or "DTE") regarding the provision of Default Service in Massachusetts. These comments are submitted by the following organizations:

A. THE UNION OF CONCERNED SCIENTISTS

The Union of Concerned Scientists ("UCS") is an independent nonprofit organization of 50,000 citizens and scientists working for practical environmental solutions. For more than two decades, UCS has combined rigorous analysis with committed advocacy to reduce the environmental impacts and risks of energy. UCS' energy program focuses on encouraging the development of clean and renewable energy resources, such as solar, wind, geothermal and biomass energy, and on improving energy efficiency. Participating in the design and implementation of state renewable policies is one way UCS actively works toward these ends. UCS is interested in promoting the public interest, which is served by a reliable and efficient regional electricity market broadly defined. UCS is submitting the following comments in this proceeding because it represents interests that will be directly affected by the outcome of this proceeding.

B. MASSACHUSETTS PUBLIC INTEREST RESEARCH GROUP

The Massachusetts Public Interest Research Group ("MASSPIRG") is a statewide public interest organization with 50,000 members across the Commonwealth. MASSPIRG's mission to deliver persistent, result-oriented public interest activism that protects our environment, encourages a fair, sustainable economy, and fosters responsive democratic government. Since 1972, MASSPIRG has worked on a range of consumer and environmental issues including energy policy matters. In light of our mission and our many members who will be directly affected by the decisions made pursuant to this proceeding we represent a perspective that should be represented. MASSPIRG moves to comment in this investigation because it represents interests that will be directly affected by the outcome of this proceeding.

C. THE MASSACHUSETTS ENERGY CONSUMERS ALLIANCE

The Massachusetts Energy Consumers Alliance ("Mass Energy") is a 20 year-old nonprofit organization with a dual mission of energy affordability and environmental sustainability. Mass Energy currently operates several energy programs, the largest of

which is the oil-buying network, which serves 7000 households in eastern and central Massachusetts, and allows members to save 15-30 cents per gallon on heating oil.

Mass Energy also actively promotes energy efficiency and renewable energy. In partnership with several other area organizations, Mass Energy is part of the Department of Energy's Million Solar Roofs program (visit SolarBoston.org). In November 2001, Mass Energy received funding from the Mass. Technology Collaborative and the John Merck Fund to develop a Green Power Consumer Aggregation. Mass Energy has fifteen partners in this effort, including the Boston Public Health Commission, Town of Brookline, City of Cambridge, City of Newton, Clean Water Action, Coalition on Environment and Jewish Life, Green Decade Coalition of Newton, Mass. Climate Action Network, Mass. Audubon Society, MASSPIRG, New Ecology, Inc., Sierra Club of Mass., Somerville Climate Action Network, and Tufts Climate Initiative. Mass Energy's goal is to work with these partners and others to launch a competitive green power offering by the end of 2002.

In addition to working directly in the market, Mass Energy will continue to advocate for policies that are pro-consumer and pro-environment.

D. CLEAN WATER ACTION ALLIANCE OF MASSACHUETTS

Clean Water Action is a national citizens' organization working for clean, safe and affordable water, prevention of health-threatening pollution, creation of environmentally safe jobs and businesses, and empowerment of people to make democracy work. Clean Water Action organizes strong grassroots groups, coalitions and campaigns to protect our environment, health, economic well-being and community quality of life. Clean Water Action is active is 25 states and has 700,000 members nationally. We represent 40,000 members in Massachusetts and have offices in Boston and Northampton, MA. One of Clean Water Action's major issue areas is the environmental impacts of electric power generation.

E. CONSERVATION LAW FOUNDATION

The Conservation Law Foundation works to solve the environmental problems that threaten the people, natural resources and communities of New England. CLF's advocates use law, economics and science to design and implement strategies that conserve natural resources, protect public health, and promote vital communities in our region. Founded in 1966, CLF is a nonprofit, member-supported organization. It has regional advocacy centers in Boston; Montpelier, Vermont; Concord, New Hampshire; Providence, Rhode Island and Rockland, Maine. CLF maintains an extensive website at www.clf.org. CLF was deeply involved in the restructuring of the electricity sector in Massachusetts and has long advocated for continued improvement in air quality from that sector. Most recently, CLF has focused on the threat of global warming and the need to deploy large-scale renewable energy sources in order to address this threat. These concerns are implicated by the issues under review in this proceeding.

F. ENVIRONMENTAL LEAGUE OF MASSACHUSETTS

The Environmental League of Massachusetts, a 501(c)(3)/501(h) organization, is dedicated to protecting the air, water, and land for the people of the commonwealth. We do this by voicing citizens' concerns in both the executive and legislative branches of state government, advocating for strong environmental laws through organizing and work

with the press, ensuring that our laws are implemented and enforced through "watchdog" monitoring and reporting, and educating individuals and communities about environmental issues. Founded in 1898 as the Massachusetts Forestry Association, ELM has evolved into a watchdog and advocacy organization encompassing a myriad of environmental issues.

ELM was instrumental in the enactment of first-in-the-nation laws on toxics use reduction, wetlands and river protection, and acid rain prevention. In 1997, we helped to bring the varied voices of the environmental movement together in the Massachusetts Environmental Collaborative to advocate for common purposes, defending environmental spending, and promoting local investments in open space, housing, and historic preservation. The Environmental League staffs and coordinates the Collaborative, which has grown to include 55 organizations working on regional environmental issues, water resources, land conservation, and public health. We bring these member organizations to the Green Power Consumer Aggregation Project led by Mass Energy, and keep them apprised of developments on this issue in particular.

## I. Summary

These comments focus on the benefits of incorporating renewable energy sources in default service procurement, the need for coordination between default service policies and other state policies, and recommendations for default service procurement. We also provide comments on the role of municipal aggregation and direct assignment in the retail market.

We request that the Department:

- ?? Coordinate Default Service and Standard Offer procurement practices with implementation of other state policies, such as RPS, in order to carry out the legislature's intent in the Restructuring Act and to achieve the most efficient outcome for consumers.
- ?? Ensure that, under any circumstances in which distribution companies provide Default Service, they comply with the RPS by including renewable energy supply in their procurement of electricity supply for Default Service customers.
- ?? Provide opportunities for long-term procurement of certificates from New England's Generation Information System ("GIS"), or certificates and energy for Default Service and Standard Offer Supply.
- ?? Explore methods to provide the regulatory certainty that is essential for renewable generation sources to be financed.
- ?? Explore and facilitate alternatives to direct assignment, such as municipal aggregation, that are likely to bring greater benefits to retail customers.

## II. Background

The Department's objective in opening the investigation is to ensure that the manner in which Default Service is provided is compatible with the development of an efficient competitive market in Massachusetts. "Default Service" was created by the

Massachusetts legislature for the provision of electric service to retail customers who do not receive electricity either under Standard Offer Service or under an agreement with a Competitive Supplier. The legislature established Default Service requirements, and initiated retail electrical competition, within a network of policies designed to improve the costs, reliability, and environmental impacts of electricity service in Massachusetts. This policy context was put in place by the 1997 Massachusetts legislation commonly known as the Restructuring Act, 1997 Mass. Acts 164. Our comments focus on implementing default service in a way that ensures the most efficient market conditions and honors the various requirements that exist, such as the RPS.

The legislature determined that development of renewable generating capacity was an essential component of electric industry restructuring. To that end the legislature created the RPS, as well as the Renewable Energy Trust, in order to spur the development of renewable resources in Massachusetts and New England. The Department's implementation of certain policies (e.g. regarding Information Disclosure), and coordination with other State agencies on other policies and programs (RPS, GPS, and generation information system), reflects the interrelated nature of initiatives contained in the Restructuring Act. While the Department is not directly responsible for all of the Restructuring Act's policies, its decisions will affect the State's success in achieving those objectives.

We recognize that in some instances reconciliation of different legislative mandates and restructuring provisions is difficult. However, it is essential that the Department ensure that, when implementing one of the interrelated policies of the Restructuring Act, it does so in a manner that furthers – or at least does not undermine – the other policies of the Act. For the Department to do this, it must take into account the manner in which other agencies have implemented the Act – in particular, the manner in which the Division of Energy Resources has implemented the Renewable Portfolio Standard through its recently promulgated regulations, 225 CMR 14.00 (2002). We hope that in future dockets the Department will ensure that its policy decisions shaping the market and retail electric service will reflect and enhance the various policy objectives established by the legislature.

## III. Benefits of Incorporating Renewable Energy in Default Service Procurement

As discussed in more detail below, incorporating renewable energy sources in Default Service Procurement will decrease the costs of RPS compliance. There are many benefits of electricity generation from renewable resources. For example, renewable generation increases the use of domestic and regional energy sources, making the U.S. and Northeast less dependent on imports of electricity and fuels for our fossil electric plants. Further, use of renewable technologies stimulates investment in new technologies, and creates high quality jobs. Finally, renewable energy reduces consumer energy costs by adding to the diversity of electricity generating sources, thereby mitigating energy shortages and creating competition with natural gas as a hedge.

Incorporating renewable energy sources into Default Service procurement would also provide additional economic benefits to customers on Default Service because it would

increase the fuel diversity and the price stability of the Default Service portfolio. For many years, proponents of renewable energy have argued that inclusion of wind power and other renewable technologies in a resource portfolio mitigates fuel price risk. Recently, researchers at the Lawrence Berkeley Laboratories have proposed one method for quantifying this benefit. They determined that the cost of achieving price stability through gas-based derivatives is 0.5 cents per kilowatt-hour.[1] Renewable energy is immune to natural gas fuel price risk and thus does not require additional expenditures for hedging price risk.

A recent UCS analysis found that a national renewable energy standard of 20 percent would eventually reduce energy costs to consumers. Total annual consumer energy bills (not including transportation) would be only 0.3 percent higher than business as usual in 2010, but $4.8 billion or 1 percent lower in 2020. The present value of total consumer savings would be $4.5 billion between 2002 and 2020. Increased competition from renewable energy results in natural gas prices that are 9 percent lower than business as usual in 2020. This benefits not only all natural gas customers, but all electricity customers, as natural gas prices are a primary driver for electric energy clearing prices. The impacts of lower natural gas prices more than offset the slightly higher costs of generating renewable electricity in the United States.[2]

## IV. The Need for Coordination Between Default Service Policies and Other State Policies

Default Service procurement is a particularly important area for ensuring consistency with other state policy objectives in the Restructuring Act. Default Service load is a large proportion of overall retail service in Massachusetts and is likely to become far larger upon the expiration of Standard Offer Service. As a result, Default Service design and procurement have significant market implications and, at least for the near term, will largely define the retail market. Unfortunately, the Default Service procurement policies the DTE has adopted to date to implement the Default Service requirements of the Restructuring Act have had the unintended consequence of conflicting with other objectives of the Restructuring Act. Further, the choices made by distribution companies in implementing those procurement policies – by requiring their energy suppliers to also provide certificates even though these are now separable functions – have the effect of penalizing renewable resources. They also define the retail market in a fashion that favors non-renewable resources. As a result, costs to ratepayers of compliance with the RPS mandate are likely to be higher.

For example, short-term Default Service procurement cycles are incompatible with the longer-term contractual commitments necessary for the financial success of renewable-fueled generation. Many renewable-fueled generation technologies have higher capital costs and lower operating costs than traditional generation resources. Because of this

[1] Bolinger, Wiser, and Golove, "Quantifying the Value that Wind Power Provides as a Hedge Against Volatile Natural Gas Prices," Lawrence Berkeley National Laboratory, University of California, Berkeley, June 2002.

[2] Union of Concerned Scientists. 2002. "Renewing Where We Live: A National Renewable Energy Standard Will Benefit America's Economy," on the UCS website at *www.ucsusa.org/energy*.

cost structure, many renewable technologies require long-term contractual commitments from credit-worthy buyers in order to attract financing. Investors appear to require commitments for renewable attributes, or both attributes and energy, of at least five years for landfill methane generators, and ten years or longer for more capital-intensive resource types such as wind. In recent testimony before the California Public Utilities Commission, the Union of Concerned Scientists requested 15 to 20 year commitments for renewable energy purchases. UCS stated that renewable projects require long-term fixed price contracts in order to be cost-effectively financed. UCS suggested that twenty-year contracts will yield the lowest costs and minimize price risk to ratepayers.

Given renewable energy plants' relatively higher upfront capital costs and lower operating costs compared to fossil-fired plants, longer contract terms are a critical driver to reducing renewable energy's average electricity costs. As an example, for a generic wind power project with typical project assumptions, moving from a 20-year contract term to a 10-year contract term increases revenue requirements by 29 percent.[3] Given the substantial impact contract term has on renewable energy's all-in generation costs, policies that support longer contract terms will be a key instrument for effectively and economically meeting state renewable energy targets. As a result, UCS recommended that the CA Commission require contract terms of at least 15 years, but preferably 20 years, for all new renewable energy projects.[4,5]

The Standard Offer and Default Service procurement cycles have a direct bearing on compliance with, and costs of, the Massachusetts RPS. Despite the fact that the RPS was made law five years ago, several factors, including uncertainty about the future of Standard Offer and Default Service, have inhibited the development of a robust market with competing retail suppliers who enter into long-term contracts with renewable energy generators. If unaddressed, the interaction of short procurement cycles and RPS requirements increases the risk that ratepayers will pay more for RPS compliance than they should. This uncertainty creates financial barriers that some types of renewable supply may not overcome and result in an inefficient market outcome.

In the past several years in New England, there has been a concerted effort to create a market, separate from the regional market for electricity, for the attributes of electricity. This effort has culminated in the development of the New England Generation Information System ("GIS") that was developed to verify compliance with a variety of

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[3] This generic wind project assumes 76 wind turbines with 660kW capacity each for 50.2MW total capacity, 32 percent capacity factor, 8 percent debt interest rate, 60-40 debt-to-equity split, and 14 percent ROE. The 20-year contract scenario also assumes a 15-year debt term, which is common. In the 10-year contract scenario, debt term is shortened to 10 years, as lenders will not extend loans beyond the PPA term within a conventional project finance structure.

[4] Union of Concerned Scientists. 2002. Expert testimony of Warren Byrne to the California Public Utility Commission in their Order Instituting Rulemaking 01-10-024.

[5] See also appendix to the Scenarios for a Clean Energy Future has the $/kW costs for new gas plants (table C-4-1) and wind and other renewable technologies (table C-4-7)
http://www.ornl.gov/ORNL/Energy_Eff/CEF-C4.pdf
Interlaboratory Working Group. 2000. Scenarios for a Clean Energy Future (Oak Ridge, TN; Oak Ridge National Laboratory and Berkeley, CA; Lawrence Berkeley National Laboratory), ORNL/CON-476 and LBNL-44029, November.

state policies in the region, including state RPS programs, other portfolio standards, and information disclosure requirements.[6]

Massachusetts retail electricity suppliers may comply with the RPS by procuring certificates created under the New England GIS for energy generation by eligible renewable sources, or by making the alternative compliance payment ("ACP") to the Massachusetts Technology Collaborative in the amount of $50 per MWh for 2003. That rate (when added to the revenues available in the energy and capacity markets) actually exceeds the cost of production for landfill methane, wind and biomass. The alternative compliance payment mechanism was developed as a protection against RPS compliance cost price spikes.[7] While the ACP was intended as a price cap for the RPS, exclusive reliance on short-term Default Service procurement mechanisms could convert it, contrary to the intent of the legislature and DOER, into something that *increases* the cost of the RPS.

Exclusive reliance on short-term Default Service procurement cycles precludes any long-term contracts for RPS-compliant certificates or renewable energy supply. Wholesale intermediaries or generation companies providing the distribution companies with Default Service supply will not secure long-term streams of certificates or renewable supply because they will not know from one procurement cycle to the next whether they will have the obligation to provide RPS-complaint certificates or renewable energy. Consequently, renewable generators do not have access to the bulk of the retail market as a result of administrative market design issues, despite their ability to provide the market commodities – electricity for retail consumption and RPS certificates.

The lack of long-term contracts to sell certificates, or certificates and energy, acts as a barrier to renewable suppliers' participation in competitive electricity markets. As a result, Standard Offer and Default Service suppliers will be unable to secure cost-effective renewable supply to meet their RPS obligations. Unless retail suppliers and distribution companies enter long-term contracts for certificates from RPS-eligible facilities, or for RPS certificates and energy, it is likely that RPS compliance costs could approach the ACP rate. Providing a long-term, forward market for GIS certificates from renewable generation should be the minimum goal. However, customers will reap the greatest benefits – including price stability – through long-term purchases of certificates plus energy.

Default Service suppliers will have little recourse but to make short-term purchases of GIS certificates (potentially at higher price levels than the GIS certificates available through long-term arrangements) or make ACPs unless the long-term purchase of either certificates, energy, or both is ensured through DTE action. As a result, compliance costs will be higher than would occur through long-term contracts with renewable suppliers for

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[6] Greene, Andrew. 2002. "What Color is Your Electricity?" *Public Utilities Fortnightly*, July 1, 2002. Additional information is available on ISO New England's website at: http://www.iso-ne.com/committees/Generation_Information_System/

[7] MA DOER, "Background Document on the Proposed Regulation for the Renewable Energy Portfolio Standard, 225 CMR 14.00," October 3, 2001, page 3.

certificates or certificates and energy. Surely the legislature did not intend for the interaction of different policies (in this case Default Service and RPS) to create a floor price for RPS compliance. However, that is what could happen without specific provisions by the DTE to ensure that Default Service providers have a viable alternative compliance path to short-term procurement of certificates (or certificates and energy) or resort to the ACP.

While this proceeding pertains to Default Service, we are compelled to note that similar concerns arise in the immediate future with Standard Offer Service and competitive energy supply. RPS requirements take effect in 2003, and Standard Offer supply must meet the RPS requirements until the expiration of Standard Offer Service in 2005.[8] Unfortunately, some distribution companies and competitive retail suppliers appear to be taking no action to comply with the RPS either through renewable energy or GIS certificate purchases, and we anticipate that they are planning the simple compliance path of paying the Alternative Compliance Payment (ACP). We also understand that there are offers to sell RPS-eligible certificates at prices in the range of one half the cost of the ACP. As with similar aversion to purchasing for RPS compliance associated with Default Service, this distribution company tactic does not appear to be a prudent use of ratepayer money, and is certainly contrary to the State's policies designed to increase new renewable development in the region. Widespread "cashing out" of the RPS would not be consistent with the legislature's intent in enacting the Restructuring Act.

In fact, we are already seeing a form of this problem in the market. The Massachusetts RPS rule includes provisions for early compliance and certificate banking, to stabilize markets and provide flexibility in the face of uncertainty for both generators and those serving retail loads in the Commonwealth. However, only load-serving entities (LSEs) with RPS obligations may over-comply in a current year for purposes of early compliance or banked certificates, and only in their own GIS accounts. The certificates must be in the account of an RPS-obligated LSE when the GIS market settles at the end of each calendar quarter in order to bank these attributes for compliance purposes. No other parties, including the wholesale suppliers of Default Service and Standard Offer, may engage in early compliance or bank compliance, for it is the distribution companies that must demonstrate compliance. Currently, low-cost RPS certificates are available from renewable generators in the region, yet generators are finding almost no buyers. This appears to stem from two factors. First, some obligated LSEs have appear to be on a path to buy GIS certificates on a short-term basis or rely on ACPs. But perhaps more importantly, the majority of the load (represented by Default Service and Standard Offer) cannot participate in the 2002 market for distribution companies have pushed their obligation up to their suppliers, who are ineligible to participate in the early compliance or banking markets. So, despite there being available supply and entities that should value lower-priced GIS certificates, there is virtually no market for RPS-eligible certificates.

[8] The Renewable Energy Portfolio Standard regulations, developed by the MA Division of Energy Resources, are contained in 225 CMR 14.00.

The nature of any market is that there will be times when supply exceeds demand and prices drop, and when demand exceeds supply and prices rise. Over the long term, it is reasonable to expect that one situation will be as common as the other. The structure of the GIS certificates market suggests that in any calendar quarter in which there is excess supply, prices for available RPS-compliance certificates may approach zero (if the certificates would otherwise expire with no value). Unless distribution companies shop actively for certificates on their own account, the results are likely to be that:

- from the generator perspective, sellers will be unable to access the majority of the potential market for early compliance (today) or banked certificates (in future years), with many certificates expiring unsold for no value, and
- from the ratepayer perspective, distribution companies will pay far more than they should for RPS-compliant certificates, for they will never buy against future obligations when supply exceeds demand.

If the distribution companies are allowed to pass on their full costs of compliance under the above scenario, then ratepayers will be paying more than they should. This interaction between the RPS regulations and DTE's policies warrants further coordination between DTE and DOER.

Long-term procurement of certificates or of certificates and energy will have greater benefits in terms of minimizing consumer costs and maximizing renewable energy development than will short term procurement or reliance on the ACP. Procurement by distribution companies rather than their wholesale suppliers of Default Service (and Standard Offer) will allow ratepayers to benefit from periods of oversupply. The DTE must ensure that ratepayer dollars from Default Service be put towards cost-effective compliance with other state policies such as the RPS. We urge the DTE to use policy tools within its jurisdiction to reinforce the efficient implementation of the RPS and other state policies that support renewable energy production and environmental improvement in the electricity sector.

## V. Recommendations on Default Service Procurement

We urge the Department to take three primary steps with regard to Default Service procurement:

- enable a long-term contractual element in Standard Offer and Default Service to permit compliance with RPS regulations in a cost-effective manner;
- ensure that the distribution company has identified and implemented the most cost-effective combination of compliance options;
- provide regulatory certainty for procurement of renewable energy in Default Service.

Enabling a long-term component of procurement could be accomplished in two or more ways. For example, the Department could require that each distribution company procure an appropriately sized portion of Default Service supply through long-term energy contracts, and that the renewable portion of this long-term energy would include energy from RPS-eligible renewable energy producers. Importantly, these long-term contracts

should be financial contracts (i.e., for electricity at a certain price), not physical contracts (i.e., for electricity from a particular generating unit), putting aside contracts for certificates as well as energy from the same renewable sources. Alternatively, the distribution company could be responsible for procuring long-term streams of GIS certificates sufficient to cover the RPS obligations for a conservative estimate of RPS load. Either of these approaches could provide the diversity needed to insulate customers from the risk of relying entirely on short-term contacts. These two options are explained in more detail in the following paragraphs.

As a preliminary matter, any long-term element in Default Service procurement requires a projection of the level of Default Service load in the relevant time frame. Such a projection is necessary to estimate what level of new renewable generation (or new renewable certificates) will be required to demonstrate RPS compliance over the applicable time period. While it will not be possible to project Default Service loads absolutely accurately for future years, it would be feasible to make a fairly conservative estimate. Such a conservative estimate would permit long-term contractual arrangements for RPS compliance for the bulk of the Default Service load. RPS compliance for the Default Service load that materialized over and above the conservative estimate could be achieved through short-term certificates purchases or through ACP. If Default Service load proves to be lower than predicted, the excess certificates could be sold.

The Department could require that distribution companies solicit long-term proposals for GIS certificates for Default Service RPS compliance. These long-term proposals could be in the form of multi-year sales of certificates and energy together. For example, a renewable supplier could next year offer to sell the electricity it generates plus the certificates associated with its generation over a period of ten years. In 2007, the fifth year of the contract, when the RPS target for new renewable generation is three percent of annual electrical energy sales, the total fraction of Default Service Supply procured through the long-term contract could be quite small.

Another option would be for the distribution company to procure separately certificates for compliance of Default Service with RPS requirements. This option would not put the distribution company in the role of a generation supplier since, through the New England GIS, the renewable attributes (certificates) are separate from the energy. A variant of this option would be for the Department to require that RPS compliance be factored in to the evaluation of Default Service supply offers, with any proposals to rely on ACPs subject to special scrutiny.

This long-term approach makes sense from the standpoint of ensuring that ratepayer monies are spent cost-effectively. Long-term purchases of streams of certificates are the most efficient mechanism for getting the best deal for consumers for RPS compliance. It is important to remember that the commodity for long-term procurement of renewable energy is the GIS certificate, not the energy itself. Further, taking a long-term position in certificates is not as risky as a long-term position in non-renewable energy supply, which can be affected by the volatility of fossil fuel prices. This lower risk exists for several reasons. First, the long-term cost of most types of renewable energy is stable. Second,

the certificates can be re-sold. And finally, the GIS certificates will be demanded by whoever has the RPS compliance obligation, even if the original buyer's compliance obligation may vary over time.

Long-term procurement of certificates and energy can bring benefits in addition to cost-effective RPS compliance. Long-term procurement of renewable energy can provide the protection against price volatility described above. In fact, the companies and the DTE may want to go further than the minimum RPS levels established in law in the purchase of long-term renewable energy, and possibly certificates, to insulate customers from price volatility and the risk of market volatility such as experienced in California.

To ensure that distribution companies procure default service supply in a manner that, overall, facilitates RPS implementation and delivers the economic and environmental benefits of renewable energy development, the Department should specify that a criteria for evaluating bids for default service is the extent to which the bid terms are consistent with the Restructuring Act's promotion of renewable energy and with implementation of the RPS. Indeed, if the Department decides to leave the distribution companies in the role of Default Service providers, it should consider requiring them to offer customers a "green" service option and to conduct procurement accordingly. This would be part of an alternative strategy for promoting competition that did not rely on direct assignment.

Finally, a long-term focus so essential to the success of renewable energy development should not be rejected over fears associated with uncertainty in the long term. It is essential that the DTE establish regulatory certainty and thereby establish a framework in which ample renewable energy supply can develop. There may be alternative ways of accomplishing this than the ones we suggest herein and, because the Department's order opening this investigation does not explicitly seek comment on this critically important issue, the Department should issue an order in which it does so.

One method for ensuring compatibility between long-term procurement and changes in default service procurement would be to direct distribution companies to enter into a laddered portfolio of long-term renewable contracts and to require competitive suppliers pick up those contracts in proportion to the load that they take from the distribution company. This obligation would only be waived if a competitive supplier can prove that they have prudent contracts of their own. In this arrangement, the RPS obligation would follow the customer (a per capita average, perhaps, could be used as a proxy for residential). The Department could also be clear that prudently incurred contracts for certificates or energy plus certificates will be recovered in rates. Other options may be equally effective.

## VI. Default Service and Municipal Aggregation

We believe that, in addition to considering methods of improving Default Service procurement, the Department should consider steps it could take to encourage and support municipal aggregation. This topic is closely related to Default Service supply issues because of the current status of the retail electricity market for residential customers and small commercial and industrial customers ("small C&I customers"). To

date small C&I and residential customers are not choosing competitive supply and there are few alternatives available to them; consequently most are on Standard Offer Service or Default Service.

While electric industry restructuring in Massachusetts was designed to rely heavily on retail competition to achieve certain policy goals, competition itself was not the goal of restructuring. The point of restructuring was to achieve better service and pricing for ratepayers as well as environmental improvement. As such we believe that the Department should take steps to ensure that small C&I and residential customers have reasonable supply alternatives, and do not all end up being served through Default Service for lack of a better option. So far, municipal aggregation appears to be a good option for these customers and may provide the most benefits to these customers. We encourage the Department to take specific steps to facilitate and encourage municipal aggregation in order to ensure that truly all customers derive benefits in the restructured electric industry. For example, the DTE could host seminars and training sessions for entities interested in municipal aggregation. These efforts are likely to result in greater benefits for residential and small C&I customers than direct assignment.

## VII. Default Service and Direct Assignment

It is not clear to us that small ratepayers will benefit significantly financially from Default Service assignment concepts such as those suggested by DOER, DTE, National Grid, and competitive suppliers. For those customers, we believe that energy efficiency and municipal aggregation options hold more promise. Rather than assigning 100 percent of default service customers in a given timeframe, we encourage DTE to focus specifically on municipal aggregation and green power choice. These options will provide far greater public benefits than direct assignment.

Nevertheless, should the DTE decide to pursue direct assignment we have a few suggestions. As suggested above in the section on Default Service procurement, we recommend that cost-effective compliance with the RPS and consistency with the legislature's goal of renewable development should be a criterion for evaluation of direct assignment bids. Any plan to assign customers away from distribution companies must be assessed in terms of whether it would facilitate implementation of the RPS – and thus carry out the legislature's intent when it enacted the Restructuring Act – by addressing the need of renewable energy developers for long-term contracts. A system in which default service assignments would be for limited terms, subject to periodic re-bidding, would be fundamentally at odds with having competitive suppliers enter into long-term renewable energy contracts.

In addition, DTE could consider including mechanisms for facilitating the purchase of green power products by customers. For example, there could be a criterion for evaluating competitive bidders seeking assignments of customer blocks that a bidder's offer provide for a "green" service option. This would accomplish two things. First, it would promote development of renewable energy supply for the Commonwealth and thereby effectuate one of the policies of the Restructuring Act. Second, because the availability of green service options can, in a well-designed market, prompt a significant

number of customers to exercise choice, it promotes the development of a fully competitive retail electricity market.

## VIII. Communications

All communications, correspondence, and documents related to this proceeding should be directed to the following people.

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